

HOUSE BILL 957

By Dunn

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, Part 12; Title 4, Chapter 3, Part 18 and Title 71, relative to drug tests as a condition of receiving public assistance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 23, is amended by adding the following as a new section:

71-5-2315.

(a) To the extent not prohibited by federal law, or by any federal waiver received by the state that waives any or all of the provisions of Title XIX of the Social Security Act as amended (P.L. 89-97) or pursuant to any other federal law as adopted by amendment to the required Title XIX state plan, the department of human services shall implement a program of substance abuse testing for each adult recipient who is otherwise eligible for public assistance or who the department has reasonable cause to believe engages in the illegal use of controlled substances. Prior to receiving public assistance every adult recipient who applies for public assistance shall sign a document that gives consent of such adult recipient to a test or tests for the purpose of determining the drug content in such adult recipient. The failure of an adult recipient to sign a document giving consent to such test or tests shall be ground for denial of public assistance benefits.

(b) Any individual whose sample tests positive for substance abuse shall be provided with notice of such result and given an opportunity to appeal the denial or cessation of public assistance benefits pursuant to this section. Except as provided in subsection (c), any adult recipient who is found to have tested positive for the use of a

controlled substance that was not prescribed for the recipient by a licensed health care provider is ineligible to receive benefits for a period of one (1) year.

(c)

(1) Any adult recipient who is found to have tested positive for the use of a controlled substance that was not prescribed for the recipient by a licensed health care provider shall be given an opportunity to enroll in a drug treatment program.

(2) An adult recipient who has not previously tested positive for the use of a controlled substance who enrolls in a drug treatment program shall continue to receive public assistance benefits provided such recipient successfully completes the program. Nothing in this subsection (c) shall prevent the termination of public assistance benefits if an adult recipient who enrolls in a drug treatment program tests positive for a controlled substance at any time after enrollment in a drug treatment program or if an adult recipient fails to complete a drug treatment program.

(d) Tests for controlled substances shall be paid by the person who is being tested. Failure to pay for a test for controlled substances pursuant to this act is grounds for denial or termination of public assistance benefits.

(e) Any adult recipient of public assistance benefits who is convicted of a Class A misdemeanor or a felony involving controlled substances or alcohol is ineligible to receive benefits for a period of three (3) years.

(f) The department shall have rulemaking authority pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to establish any necessary rules for the administration of this section, and shall have rulemaking authority to establish any rules to carry out the requirements of any title or part of any title that the

department administers and that are necessary to immediately implement the provisions of this section to effectuate any federal legislative changes.

(g) By January 1, 2012, and each January 1 thereafter, the department shall submit an annual report on the testing program to the senate general welfare, health, and human resources committee and the house of representatives health and human resources committee. The annual report shall include at least the following information for the preceding year:

(1) The number of individuals tested and the number of positive test results;

(2) The costs of the testing; and

(3) The number of sanctions imposed as a result of the testing.

(h) The department of health shall assist the department of human services in implementing the substance abuse testing program for applicants and recipients for public assistance under the provisions of this section.

SECTION 2. For purposes of developing the program and rulemaking this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect on January 1, 2012, the public welfare requiring it.